

Cherokee County Noise Ordinance

WHEREAS, N.C.G.S. 153A-133 authorizes counties to adopt ordinances regulating, restricting, or prohibiting the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

WHEREAS, excessive sound and vibration and inadequately controlled noise are serious hazards to the public health, safety, and welfare, and a source of annoyance to the populace; and

WHEREAS, a substantial body of science and technology exists by which excessive or unreasonable noise and sound may be abated or eliminated; and

WHEREAS, it is the policy of Cherokee County to protect the health, safety, and welfare of its citizens and to promote an environment free from sound and noise disruptive of peace and good order.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CHEROKEE DOTH ORDAIN:

It is the purpose of this Ordinance to establish an effective means of regulating and controlling sound and noise within the County of Cherokee to the ends that (1) the health, safety, and welfare of the population are promoted and maintained through peace and good order; and (2) the rights of individuals are not unreasonably restricted.

1. Offenses Against Public Peace and Order; Generally

(a) Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud and disturbing noise in the County. For purposes of this section, the following definitions shall apply:

(1) Unreasonably loud: Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

(2) Disturbing: Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

(b) In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day, proximity to residential structures; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning (if applicable) of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

2. Offenses Against Public Peace and Order; Specific noises expressly prohibited.

The following acts, among others, are declared to be loud, disrupting and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

- (a) The sounding of any horn of signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after, or as brakes are being applied and deceleration of the vehicle is intended, the creation by means of any such signal device of any unreasonable loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;
- (b) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;
- (c) The use or operation of any piano, manual or automatic, phonographic, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance; provided, however, that upon application to the Board of Commissioners, or their designee, permits may be granted to responsible organizations to produce programs in music, speeches, or general entertainment;
- (d) The keeping of any animal or bird which by causing frequent loud continued noise shall disturb the comfort and repose of any person in the vicinity;
- (e) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in any such manner as to create loud or unnecessary, grating, grinding, rattling, or other noise;
- (f) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;
- (g) The discharge into the open air of the exhausts of any steam engine, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (h) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (i) The erection, (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in the case of urgent necessity in the interest of public safety and then only with a permit from the Board of Commissioners, which permit may be renewed after a period of three (3) days or less while the emergency continues;
- (j) The creation of any excessive noise on any street adjacent to any school, institute of learning, or court while the same is in session, or interferes with the working of such institution, provided conspicuous signs are displayed on such streets indicating that the same is a school, court, or hospital street;

- (k) The creation of any excessive noise on Sundays on any street adjacent to any church provided, conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street;
- (l) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates, and containers;
- (m) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;
- (n) The shouting and crying of peddlers, barkers, hawkers, vendors and other persons which disturbs the quiet or repose of any persons in the vicinity thereof;
- (o) The use of any drum, loud speaker, or any other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise;
- (p) The use of any mechanical loud speakers or amplifiers on trucks or moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners or their designee;
- (q) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 7:00 p.m. and 7:00 a.m.
- (r) The firing or discharging of squibs, crackers, or gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the Board of Commissioners, or their designee;

3. Enforcement

- (a) The violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine of fifty dollars (\$50.00) or imprisonment of thirty (30) days or both fine and imprisonment. Each day on which any violation of this Ordinance shall continue shall constitute a separate and distinct violation and offense.
- (b) In addition, this Ordinance may be enforced by injunction or other equitable relief by an action brought in the General Court of Justice.

- 4. Farming operations shall be exempt from the operations of this Ordinance.
- 5. Should any section or provision of this Ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.
- 6. This Ordinance shall become effective upon adoption.

PROPOSED ORDINANCE ADDENDUM TO NUMBER 90.15 NOISE; PERMITS.

By power granted by the State of North Carolina, under G.S. 160A-184, has adopted the following ordinance:

Subject to the provisions of this section, the creation of any unreasonable disturbing noise of such character, intensity and duration as to be detrimental to the life, health, safety, or welfare of any individual is prohibited in this chapter.

DEFINITIONS

"A-Weighted Sound Level" The sound pressure level in decibels as measured by a sound level meter using the A-weighting network. The level so read is designated as the A-weighted sound level.

"Decibel (Db)" A unit for describing the amplitude of sound, equal to the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

"Emergency Work" Any work performed for the purpose of preventing or minimizing physical trauma or property damage threatened or caused by an existing emergency.

"Holiday" For the purposes of this chapter, the following days will be considered holidays for the purpose of granting permits to exceed maximum sound levels: New Year's Day, Memorial Day, Independence Day, Labor Day, Halloween, and Christmas.

"Muffler" An apparatus consisting of a series of chambers of baffle plates for the purpose of transmitting gases while reducing sound emanating from them.

"Noise" Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

"Outdoor Amplified Sound" Any sound using amplifying equipment whose source is inside and the sound propagates to the outside through windows or other opening in the building.

"Person" Any individual, association, partnership, or corporation, including any employee, department, agency or instrumentality of the United States, or political subdivision thereof.

"Plainly Audible" Any sound produced by a sound amplification system which is heard at a distance of 75 feet or more. Measurement standards shall be based on human senses, based upon the direct line of sight. Words or phrases need not be repeated and bass reverberations are included.

"Slow Response" A measuring technique to obtain an average value when the sound level fluctuates over a range of four Db or more. By way of illustration, a sound-level meter set on "slow response" would record a sound level of 60 decibels less than the reading for a steady signal of the same frequency when a tone of 1,000 Hz and for a duration of 0.5 seconds is applied.

"Sound" An oscillation in pressure particle displacement, particle velocity or any other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

"Sound Amplification System" Any radio, tape player, compact disc player or other electronic device used for the amplification of sound.

"Sound Level" The weighted sound pressure level obtained by the use of meter and frequency weighting network, such as A, B or C as specified National Standards Institute specifications for sound level meters (AN latest approved version of thereof). If the frequency weighting employ indicated, the A-weighting shall also apply.

"Sound Level Meter" An instrument which includes a microphone, amplifier integrator or time averager, output meter and weighting network used to measure sound pressure levels.

"Sound Pressure Level " 20 times the logarithms to the base 10 of the mean squared (RMS) sound pressure to the reference pressure of 20 micrometers.

STANDARDS

Standards, instrumentation, personnel, measurement procedures and reports to be used in the measurement of sound shall be as specified in this section and administrative directives issued by the Town Administrator.

Sound level measurement shall be made with a sound level meter using the dB scale, set on "slow response".

Sound level meters shall be at least Type II meeting American National Standards Institute (ANSI) S1.4-1971 requirements.

MAXIMUM PERMITTED SOUND LEVELS

(A) The use of sound amplifying equipment is limited to the conditions section.

(B) Outdoor amplified sound, including a live musical group or individual with sound amplifying equipment, may be produced only if an authorized agent of the business, organization or group has been granted an "outdoor amplified sound permit." This permit must be signed by a representative of the business, organization or group holding or sponsoring the event at which the outdoor amplified sound will be produced.

(C) Except as allowed in subsection (D) below, no person shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the use occupancy categories in Table 1. The sound level shall be measured at or beyond the property line of the property from which the sound originates. For purposes of measurement, the back of the curb, the outside edges of fences, hedges, or other physical features commonly associated with property lines are presumed to be at a point which is at or beyond the property line. The maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates and not the use occupancy of any surrounding property. Sound which originates from a duplex or other multifamily housing unit shall be measured from any point at least 25 lineal feet, whether inside or outside a building, from the nearest exterior wall, enclosed or habitable space of the dwelling unit from which the sound originates.

TABLE 1

SOUND LEVELS BY USE OCCUPANCY

Use Occupancy Category

Time

Sound Level Limit (Db(A))

Residential 7:00AM-10:00PM

10:00PM-7:00AM

60

55

Public Space, Commercial or Business

7:00AM-10:00PM

10:00PM-7:00AM

65

60

Manufacturing, Industrial, Or Agricultural

At All Times

75

(D) Sound levels in excess of the limits established in Table 1 will k public space, commercial or business space, manufacturing, industrial space, but not in residential space, as follows:

TABLE 2

Without Permit

(Db(A))

With Permit to Exceed (Db(A))

Friday and Saturday Evenings (5:00PM-11:00PM)

70

80

Holidays (as defined)

(Noon-11:00PM)

70

80

PROHIBITED NOISE

The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but such

enumeration shall not be deemed exclusive:

Loud and Boisterous Individuals. The use of any loud, boisterous or ra shouting so as to annoy or disturb the quiet, comfort of repose of any vicinity.

Noises Near Schools, Churches, Courts, Hospitals, etc. The creation of noise on any street adjacent to any school, institution of learning, while the same is in session, or adjacent to any church during church interferes with work or worship in any such place or institution, provided signs are displayed on such street indicating that the same is school, court, or hospital.

Loading and Unloading Operations. The creation of loud and excessive noise with loading or unloading any vehicle, or repairing any vehicle, or of destroying bales, boxes, crates, and containers this includes the collection of recycling materials, and yard waste. Activity is permitted between the and 7:00PM;

Hawking, Peddling, Soliciting. Shouting, loud talking, crying, or soliciting hawkers, taxi drivers, solicitors and vendors, which disturbs the quiet neighborhood or any person therein;

Business Noise At Night Near Residences. The operation of any garage, auto repair business, plant, store, factory, night club, restaurant, or of business, between the hours of 7:00pm and 7:00am, in such a manner and disturbing noises of such frequency or such volume as to annoy or and comfort of any citizen, and particularly the creating of disturbing frequency and volume as to annoy or disturb the quiet, comfort, peace, person in any dwelling, hotel, boardinghouse, or other type of residence

It shall be unlawful for any person or persons to play, use, or permit played any loud sound amplification system if it is located in any of

Any public property, including any public street, highway, building ,

thoroughfare; or

Any motor vehicle on a public street, highway, public space, or commercial

Any commercial space or place of business;

And if the sound generated registers a sound level which exceeds the level specified in Table 1 when measured at a distance of 25 feet from the device producing sound or exempted by any other section of this article.

Possession by a person or persons of any machines or devices which may be classified as a loud sound amplification system enumerated in subsection 1, and prima facie evidence that such person or those persons operated the machine (Penalty, see 90.16)

EXCEPTIONS

The following are exempt from the provisions of Table 1 and Table 2 of this article:

Sound emanating from scheduled outdoors athletic events.

Building Operations. The erection, including excavating, demolition, and repair of any building in a residential district other than between the hours of 7:00pm on weekdays, except as said hours may be modified during the summer months (September) and except in the case of urgent necessity in the interest of public health and safety and then only with a permit from the Town Administrator, which permit shall be for a period of (3) three days or less while the emergency continues. All equipment shall be operated in accord with the manufacturer's specifications and are maintained in good operating condition.

Noise of safety signals, warning devices, emergency pressure relief valves

church bells.

Noise resulting from any authorized emergency vehicle.

Noise resulting from parades, lawful picketing, or other public demonstrations by the U.S. Constitution or federal law, or for which a local permit is issued by the town, provided such activity is of a temporary duration lasting not more than 12 hours during any 24-hour period. Regulation of noise emanating from aircraft shall be according to the conditions and limits stated in this permit according to any additional conditions stated on the permit.

Unamplified and amplified sound at street fairs conducted, sponsored, or authorized by the town.

All noises coming from the normal operations of properly equipped aircraft (including scale-model aircraft).

Noise from noisemakers on holidays and fireworks on holidays or at times of pyrotechnics permit issued pursuant to G.S. 14-410 et seq.

Lawn mowers and agricultural equipment used between daylight hours 7:00 a.m. to 6:00 p.m. operated with all manufacturer's standard mufflers and noise-reducing devices and in proper operating condition.

Unamplified and amplified sound at community concerts conducted, sponsored, or authorized by the town.

Practice sessions or a performance by marching bands.

Noise from trains and associated railroad rolling stock when operated in a proper and lawful manner.

Emergency work, as defined in the definition section of this ordinance

MOTOR VEHICLE NOISE

It shall, be unlawful for any person to drive, operate, move, or permi
operated, or moved, a motor vehicle or combination of vehicles at any
manner that the sound level of the vehicle exceeds the levels set fort
of vehicles as shown below.

Table 3

Maximum Motor Vehicle Sound Level in Db(A)

- Speed Limit 35 mph or Less
- Speed Limit 35 mph or more

Vehicle Stationary

Motor Vehicle with a gross vehicle weight rating (GVWR) of less than 1

83

Motorcycle

81

85

83

Motor vehicle with a GVWR of more than 10,000 pounds

89

94

91

Any other motor vehicle or any combination of vehicles towed by any mc

76

80

78

~~Sound levels~~ are to be measured at a distance of 25 feet from the near
monitored and at a height of at least four feet above the immediate su

This section shall apply to the total noise from a vehicle and shall r
limiting or precluding the enforcement of any other provisions of this
to motor vehicle mufflers or noise control. (Penalty, see 90.16)

MUFFLERS

It shall be unlawful for any person to operate or cause to be operated unless the exhaust system is free from defects, which affect sound rec

No person shall remove or render inoperative, or cause to be removed c inoperative, other than for purposes of maintenance, repair or replace c or sound dissipative device on a motor vehicle.

It shall be unlawful for any person to modify the exhaust system of a the installation of a muffler cut-out or bypass, and no person shall c vehicle which has been modified. (Penalty, see 90.16)

ANIMAL NOISES PROHIBITED

It shall be a violation of this chapter for any person to keep or mair keeping of, on premises owned, leased, occupied, or controlled by such or fowl, the keeping of which is otherwise lawful, which by habitual c cry, howling, barking, squawking, or other noise, shall disturb the q repose of any person. (Penalty, see 90.16)

PERMITS

Who may apply. A person or group of persons may produce or cause to be excess of the limits set in Table 1 only if a "permit to exceed" has k a permit granted pursuant to this section, maximum sound levels shall Table 2.

Application for permit. Any person or group of persons desiring an "outdoor sound permit" or "permit to exceed" shall apply as provided in this section and provide information concerning the nature of the scheduled event; failure to meet this requirement shall be grounds for denying the permit.

Action by Town Administrator. The Town Administrator or his or her designee shall act upon all requests for permits. In considering and acting on all requests pursuant to this chapter, the Town Administrator shall consider, but not be limited to, the following in issuing or denying such permit: The timeliness of the application; the nature of the requested activity; previous experience with the applicant; the event; other activities in the vicinity of the location proposed; applications by the applicant; the cultural or social benefits of the activity; the effect of the activity on the residential area of the town; and, if any, of the applicant.

Fee for permit. Every application for permit shall require a \$15 (ten dollar) administrative fee.

Conditions on permits. "Permits to exceed" and "outdoor amplified sound permits" shall specify the duration for which noncompliance shall be permitted and shall set forth conditions or requirements necessary to minimize adverse effects upon the surrounding neighborhood. The Town Administrator or his or her designee shall not be limited to the following:

That no sound speakers may be set up more than ten feet off the ground.

That the permit holder change the arrangement of amplifying equipment or instruments upon the request of any police officer so as to minimize disturbances to others resulting from the positioning or orientation of the amplifying equipment; and atmospheric or geographically caused dispersal of sound beyond the boundaries of the town.

That adjoining property owners surrounding the location proposed as the site of the permitted event be notified by the applicant at least 72 hours prior to the event, and also advised of the time by which cleanup of the area will be completed. Notice to the adjoining property owners shall include a statement indicating the nature of the event and the time by which cleanup will be completed.

comments or concerns regarding the issuance of a permit at the propose made to the Town Administrator.

That no permitted event may last more than four hours in duration. This condition;

That no event may extend beyond 11:00PM. This is a mandatory conditior

That the site of the event, and the area surrounding the site of the e cleaned by the applicant, of all the trash, litter, and debris by 10:0 day, or by sunset of the day of the event if the event ends at least f sunset.

The signer for the permit must be available at the site of the event c time for which a permit has been issued and capable of assisting the p the noise control ordinance. Failure of the signer of a permit to be p the police in complying with this chapter will be cause for immediate permit. (Penalty, see 90.16)

(90.16) PENALTY

Any violation of this chapter shall subject the offender to a civil pe of \$50.00 (fifty) dollars, which may provide for a \$15.00 (fifteen) dc charge if said ~~penalty is not~~ paid within 20 days of issuance, and whi delinquency charge may be recovered by the town in a civil action. The payable to the Town Clerk at the Town of Grifton Town Hall.

Each day's continuing violation shall be a separate and distinct offer

Notwithstanding subsection (A) above, provisions of this chapter may k equitable remedies issued by a court of competent jurisdiction.

In addition to or in lieu of remedies authorized in subsections (A) of this chapter may be prosecuted as a misdemeanor in accordance with 160A-175. The penalty for a misdemeanor offense shall be \$150.00 (one and may be made upon issuance of a citation or if the violator fails to pay the penalty.

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